



**News Flash** – Suppliers submitting a bid for a product category in a competitive bidding area (CBA) must meet all state licensure requirements for DMEPOS and other applicable state licensure requirements, if any, for that product category for every state in that CBA. Prior to submitting a bid for a CBA and product category, the supplier must have a copy of the applicable state licenses on file with the NSC. Suppliers must be accredited for a product category to submit a bid for that product category. Suppliers subject to the surety bond requirement must be bonded in order to bid. For more information on the Medicare DMEPOS Competitive Bidding Program please visit <http://www.cms.hhs.gov/CompetitiveAcqforDMEPOS/> on the CMS website.

MLN Matters® Number: MM6571

Related Change Request (CR) #: 6571

Related CR Release Date: August 3, 2009

Effective Date: August 3, 2009

Related CR Transmittal #: R527OTN

Implementation Date: September 3, 2009

## **Program Instructions Designating the Competitive Bidding Areas and Product Categories Included in the Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program Round One Rebid in calendar year (CY) 2009**

### **Provider Types Affected**

Medicare DMEPOS suppliers that bill DME Medicare Administrative Contractors (DME MACs) as well as providers that bill Medicare Regional Home Health Intermediaries (RHHIs) or Part A/B Medicare Administrative Contractors (A/B MACs) whom refer or order DMEPOS for Medicare beneficiaries.

### **What You Need To Know**

The Centers for Medicare & Medicaid Services (CMS) issued Change Request (CR) 6571 in order to identify the nine metropolitan statistical areas (MSAs) as well as product categories in which the DMEPOS competitive bidding round one re-bid will occur in CY 2009 under section 1847 of the Social Security Act.

### **Key Points of CR6571**

#### **Disclaimer**

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As mandated by the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA), the DMEPOS Competitive Bidding Round One rebid in 2009 will occur in the following 9 MSAs:

- Cincinnati—Middletown (Ohio, Kentucky and Indiana);
- Cleveland—Elyria—Mentor (Ohio);
- Charlotte—Gastonia—Concord (North Carolina and South Carolina);
- Dallas—Fort Worth—Arlington (Texas);
- Kansas City (Missouri and Kansas);
- Miami—Fort Lauderdale—Miami Beach (Florida);
- Orlando (Florida);
- Pittsburgh (Pennsylvania); and
- Riverside—San Bernardino—Ontario (California).

Further information on the boundaries and list of zip codes for each competitive bid area (CBA) and the Healthcare Common Procedure Coding System (HCPCS) codes for each product category are available by visiting [http://www.cms.hhs.gov/DMEPOSCompetitiveBid/01\\_overview.asp](http://www.cms.hhs.gov/DMEPOSCompetitiveBid/01_overview.asp) on the CMS website and following the link to Competitive Bidding Implementation Contractor (CBIC).

The DMEPOS Competitive Bidding Round One rebid in 2009 will include the following 9 product categories:

- Oxygen Supplies and Equipment;
- Standard Power Wheelchairs, Scooters, and Related Accessories;
- Complex Rehabilitative Power Wheelchairs and Related Accessories (Group 2);
- Mail-Order Diabetic Supplies;
- Enteral Nutrients, Equipment and Supplies;
- Continuous Positive Airway Pressure (CPAP), Respiratory Assist Devices (RADs), and Related Supplies and Accessories;
- Hospital Beds and Related Accessories;
- Walkers and Related Accessories; and
- Support Surfaces (Group 2 mattresses and overlays) in Miami.

The MSAs and product categories that are included in the DMEPOS Competitive Bidding Round I rebid in 2009 can also be found at [http://www.cms.hhs.gov/DMEPOSCompetitiveBid/01\\_overview.asp](http://www.cms.hhs.gov/DMEPOSCompetitiveBid/01_overview.asp) on the CMS website.

Suppliers and providers may call the Provider Contact Centers with competitive bidding inquiries at the CBIC Competitive Bidding Program Helpdesk at 1-877-

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577-5331 or go to the “Contact Us” feature on the CBIC Competitive Bidding Program website at <http://www.dmecompetitivebid.com/> on the Internet to submit competitive bidding specific questions.

## Background

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The Medicare payment for most DMEPOS is currently based on fee schedules. However, section 302(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), which amended section 1847 of the Social Security Act (the Act), mandates a competitive bidding program to replace the current DMEPOS fee schedule payment amounts for selected items in selected areas.

The statute provides that competitive bidding will apply to DME meeting the definition of a “covered item” as specified in section 1834(a) (13) of the Act, including items used in infusion and drugs (other than inhalation drugs) and supplies used in conjunction with DME, but excluding class III devices under the Federal Food, Drug and Cosmetic Act. Competitive bidding will also apply to enteral nutrients, equipment, and supplies. Further, competitive bidding will apply to off-the-shelf orthotics described in section 1861(s)(9) for which payment would otherwise be made under Section 1834(h) which require minimal self-adjustment for appropriate use and do not require expertise in trimming, bending, molding, assembling, or customizing to fit the individual.

The statute, as amended by the MMA, also provided for phasing in competitive bidding beginning in 10 of the largest MSAs. Areas that may be exempt from the DMEPOS competitive bidding program include rural areas and areas with low population density within urban areas that are not competitive, unless there is a significant national market through mail order for a particular item or service.

Round One of the DMEPOS competitive bidding program was implemented on July 1, 2008, in ten competitive bidding areas, as mandated by the MMA. However, as part of MIPPA, Congress enacted a temporary delay in the competitive bidding program for Round One Competitive Bidding Areas. The law required CMS to terminate the existing contracts that were awarded in Round One and conduct a second Round One competition (the “Round One rebid”) in 2009. The MIPPA also excluded certain Round One DMEPOS items and areas from the competitive bidding program. Section 154(a) of the MIPPA exempted group three complex rehabilitative power wheelchairs and related accessories when furnished in connection with such wheelchairs for the Round One rebid and subsequent rounds of the program, as well as, negative pressure wound therapy (NPWT) items and services from the Round One rebid competition. The MIPPA also excluded Puerto Rico as an area so that the Round One rebid competition covers nine, instead of ten of the largest MSAs. Except for the aforementioned

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exceptions, section 154(a) of the MIPPA requires that the Round One rebid occur in 2009 with the same items and services and the same areas as in Round One.

## Additional Information

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If you have questions, please contact your Medicare DME/MAC, RHHI or A/B MAC at their toll-free number which may be found at <http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.

The official instruction (CR6571) issued to your Medicare DME/MAC, RHHI or A/B MAC is available at <http://www.cms.hhs.gov/Transmittals/downloads/R527OTN.pdf> on the CMS website.

For clarification of the initial delay in the DMEPOS competitive bidding program you may review MM6203 at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM6203.pdf> on the CMS website.

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